

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ARTHUR JACKSON, III : **NO. 02-3230**
V. : **CIVIL ACTION**
DELAWARE COUNTY ET AL : **JURY TRIAL REQUESTED**

**DEFENDANTS, DELAWARE COUNTY, DELAWARE COUNTY
BOARD OF PRISON INSPECTORS, GEORGE W. HILL AND
CHARLES P. SEXTON, JR.'S PRE-TRIAL MEMORANDUM**

I BRIEF STATEMENT OF NATURE OF THE CAUSE OF ACTION

This matter arises from a slip and fall incident which occurred at the George W. Hill Correctional Facility on May 28, 2000. Plaintiff's claims are brought pursuant to 42 U.S.C. § 1983 and pendent state tort claims regarding the medical care Plaintiff received while an inmate at the George W. Hill Correctional Facility.

II DEFENDANTS' COUNTER-STATEMENT OF THE FACTS

Defendants Delaware County, Delaware County Board of Prison Insepctors, Charles P. Sexton, Jr., and George W. Hill (collectively "The County Defendants") did not deprive Plaintiff of his medications while incarcerated. In fact, these Defendants did not provide any medication or medical care to Plaintiff whatsoever during his term of incarceration.

The County Defendants contracted with Defendant Wackenhut Corrections Corporation to provide medical care to prisoners incarcerated at the George W. Hill Correctional Facility. The County Defendants had no knowledge of any of the circumstances surrounding Plaintiff's

claims until being served with the instant lawsuit.

Further, upon review of the prison records, there is no evidence that the prison “lost” Plaintiff’s medication, as claimed by him. The medical chart reveals that Plaintiff understood and agreed to bring his medications with him, but failed to do so.

A review of Plaintiff’s medical records from other providers reveals an extensive history of alcohol abuse and non-compliance with medical treatment, including but not limited to such things as leaving hospital facilities against medical advice. This alcohol abuse continued despite Plaintiff’s diagnosis of insulin dependent diabetes mellitis. Significantly, upon presentation to the emergency room at Crozer-Chester Medical Center on May 28, 2000, there were no traces of benzodiazepines in Plaintiff’s blood, which demonstrates that he has stopped taking Klonopin prior to the commencement of his weekend sentence on the evening of May 26, 2000. In addition, Plaintiff admitted to flushing out his system with water and to continuing to use alcohol while on furlough from his weekend sentences. The doctors at Crozer-Chester Medical Center diagnosed Plaintiff with “hyponatremia,” a condition characterized by a dangerously low level of sodium which can be brought about by flushing one’s system with water.

Ultimately, Plaintiff’s continued use of alcohol, particularly as an insulin dependent diabetic, in conjunction with his own discontinuation of medications and flushing out his system with excessive amounts of water demonstrate that it was Plaintiff’s own self abuse and/or neglect which caused his accident, not the negligence of any of the County Defendants.

III DAMAGES

See Plaintiff’s Memorandum.

IV DEFENDANTS’ LIST OF WITNESSES

1. Plaintiff, Arthur Jackson, III
2. Camilla McFadden (Plaintiff's wife)
3. Lee Silverman, M.D. (Plaintiff's Expert)
Mercy Psychiatry Associates
1503 Lansdowne Avenue
Suite 3005
Darby, PA 19023
4. Dan J. Gzesh, M.D. (Plaintiff's Expert)
Neurology Associates, LTD.
1514 Wolf Street
Philadelphia, PA 19145
5. Carol Armstrong (Plaintiff's Expert)
4023 Howell Road
Malvern, PA 19355
6. Andrew C. Verzilli (Plaintiff's Expert)
4096 Durham Road
Ottsville, PA 18942
7. Andrew G. Verzilli (Plaintiff's Expert)
4096 Durham Road
Ottsville, PA 18942
8. Betsy Bates (Plaintiff's Expert)
79 Fairview Road
Elkton, MD 21921
9. James F. Menapace, M.D. (Defense Expert)
341 E. Casals Place
Ambler, PA 19002
10. Marc Sageman, M.D., Ph.D. (Defense Expert)
Society Hill Towers
200 Locust Street
Philadelphia, PA 19106
11. Deborah Perretta
Plymouth Meeting, PA
12. Victoria Gessner, M.D.

- George W. Hill Correctional Facility
P.O. Box 23A
Thornton, PA
13. Miriam Byrd, R.N.
George W. Hill Correctional Facility
P.O. Box 23A
Thornton, PA
 14. Carol Snell, R.N.
George W. Hill Correctional Facility
P.O. Box 23A
Thornton, PA
 15. Cindy Heinly
George W. Hill Correctional Facility
P.O. Box 23A
Thornton, PA
 16. Robert Burgwald
George W. Hill Correctional Facility
P.O. Box 23A
Thornton, PA
 17. Mark Smida
To be supplied
 18. Lt. Chad McCullough
George W. Hill Correctional Facility
P.O. Box 23A
Thornton, PA
 19. Ernest W. Gratz
George W. Hill Correctional Facility
P.O. Box 23A
Thornton, PA
 20. Sean Gardner
123 N. Church Street
Clifton Heights, PA
 21. Anthony DiCave
1934 Kings Highway
Swedesboro, NJ 08085

22. Christa Snook
1550 Old Highway 27
#273
Clewistown, FL 33440
23. George W. Hill
George W. Hill Correctional Facility
P.O. Box 23A
Thornton, PA
24. Charles P. Sexton, Jr.
George W. Hill Correctional Facility
P.O. Box 23A
Thornton, PA
25. Margaret Carrillo, M.D.
350 Trevor Lane
P.O. Box 2224
Bala Cynwyd, PA 19004
26. Lorraine Robertson
715 S. Matlack Street
West Chester, PA 19382
27. James Janecka
(To be supplied)
28. Gerry Gallagher
(To be supplied)
29. Michael Vincent
(To be supplied)
30. James Latin
(To be supplied)
31. David Paschall
(To be supplied)
32. All witnesses identified by Plaintiff and co-defendants

V DEFENDANTS' LIST OF TRIAL EXHIBITS

1. Plaintiff's inmate records regarding 2000 DUI conviction
2. Plaintiff's inmate records regarding 1998 incarceration
3. Plaintiff's medical records from the George W. Hill Correctional Facility for 1998 and 2000 incarcerations.
4. Plaintiff's records from prison housing database
5. Inmate housing report for Plaintiff
6. Plaintiff's Medication Administration Records from February – May, 2000
7. George W. Hill Correctional Facility Weekender Program Policy 1900.05
8. Prison Monthly Unit Activity Log for 5/28/00 for Medical – Security Desk
9. Prison Monthly Unit Activity Log for 5/28/00 for DUI Unit
10. Records from Y & S Pharmacy Services, Inc.
11. WCC Food Service Department sample menu
12. WCC Health Services Policy and Procedure Manual (revised 2/1/96)
13. WCC Health Services Policy and Procedure Manual (revised 12/02)
14. Accreditation of American Correction Association dated 8/31/01
15. Accreditation Report of National Commission on Correctional Health Care dated 2/25/00
16. List of weekend inmates during weekends from February – May, 2000
17. WCC Policy No. 1100.02 (Menu Planning and Meal Service)
18. WCC Policy No. 1100.02.1(Meal Service)
19. Chart regarding Plaintiff's medical prescriptions
20. George W. Hill Correctional Facility shift rosters for February – May, 2000
21. Photocopies of checks regarding Plaintiff's prescription medications (2000)
22. Professional Services Contract between the Delaware County Board of Prison Inspectors and Wackenhut Corrections Corporation dated 8/31/95

23. Records from Crozer-Chester Medical Center / Crozer-Keystone Health System
24. Records from Celcus I. Ebba, M.D.
25. Records from Satish Marisiddaiah, DDS
26. Records from Michael Ryan, DDS
27. Records from Leonard Hirsh, M.D.
28. Records from Dr. Daniel Gzesh
29. Records from David Lee Silverman, M.D.
30. Records from Dr. Michael Stanley
31. Records from Dr. John Draganescu
32. Records from Bryn Mawr Hospital
33. Records from Medicine Shoppe
34. Records from Beckett Apothecary
35. Records from CVS Pharmacy
36. Records from Riddle Memorial Hospital
37. Records from Prashant Mukerjee, M.D.
38. Records from Chester County Hospital
39. Records from Social Security Administration
40. Records from Delaware County Memorial Hospital – 1997
41. Curriculum Vitae of James F. Menapace, M.D.
42. Expert report of James F. Menapace, M.D. dated 5/27/03
43. Expert report of James F. Menapace, M.D. dated 10/6/03
44. Expert report of James F. Menapace, M.D. dated 2/9/04

45. Expert report of James F. Menapace, M.D. dated 2/19/04
46. Internet article regarding Hyponatremia by Tom Brody
47. Curriculum Vitae of Marc Sageman, M.D., Ph.D.
48. Expert report of Marc Sageman, M.D., Ph.D. dated 6/6/03
49. Expert report of Marc Sageman, M.D., Ph.D. dated 2/19/04
50. Curriculum Vitae of Dan Jonathon Gzesh, M.D.
51. Expert Report of Dan Gzesh, M.D. dated 2/4/03
52. Curriculum Vitae of Lee Silverman, M.D.
53. Expert Report of Lee Silverman, M.D. dated 1/21/03
54. Expert Report of Lee Silverman, M.D. dated 2/2/04
55. Transcript of statement of counsel re: failure of Drs. Silverman and Gzesh to appear for depositions dated March 5, 2004
56. Deposition transcript of Arthur Jackson dated 2/20/03
57. Deposition transcript of Arthur Jackson dated 3/12/03
58. Deposition transcript of Camilla McFadden
59. Deposition transcript of Carol Snell
60. Deposition transcript of Dr. Victoria Gessner
61. Deposition transcript of Miriam Byrd
62. Deposition transcript of Cindy Heinly
63. Deposition transcript of Robert Burgwald
64. Deposition transcript of Mark Smida
65. Deposition transcript of Lt. Chad McCullough

66. Deposition transcript of Ernest W. Gratz
67. Deposition transcript of Sean Gardner
68. Deposition transcript of George W. Hill
69. Deposition transcript of Charles P. Sexton, Jr.
70. Deposition transcript of Deborah Perretta
71. Deposition transcript of James Janecka
72. Deposition transcript of Lorraine Robertson
73. Documents previously marked by Plaintiff's counsel as Exhibit Byrd – 12 for depositions
74. Three (3) VHS videotapes of Plaintiff's Independent Medical Examination with Marc Sageman, M.D., Ph.D.
75. Any and all depositions transcripts taken between March 5, 2004 and the commencement of trial
76. Any and all exhibits reserved by Plaintiff

VI LENGTH OF TRIAL

The trial of this matter is expected to last 3 – 4 weeks.

VII SPECIAL COMMENTS REGARDING LEGAL ISSUES

Defendants assert that Plaintiff has not met his burden of proof or persuasion regarding his claims of deliberate indifference to his serious medical needs as required by § 1983. Further, the Delaware County Defendants are entitled to qualified immunity regarding Plaintiff's civil rights claims.

With regard to Plaintiff's state tort claims, Defendants County of Delaware, Delaware County Board of Prison Inspectors, Charles P. Sexton, Jr. and George W. Hill are immune from suit pursuant to the Political Subdivision Tort Claims Act (42. Pa.C.S.A. § 8541, *et seq.*).

Notwithstanding immunity from state tort claims, Plaintiff has failed to sustain his burden that any of the County Defendants rendered medical care to him or were negligent in any way.

Finally, Plaintiff's failure to bring his medications with him on his weekend sentences while continuing to abuse alcohol during his furloughs to such an extent as to render him hyponatremic is contributory negligence as a matter of law to such an extent that Plaintiff is precluded from recovery.

Respectfully submitted:

DIORIO AND SERENI, LLP

Date: March 29, 2004

BY: _____
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Delaware County Board of Prison
Inspectors, George W. Hill and Charles P.
Sexton, Jr.

CERTIFICATE OF SERVICE

We, Robert M. DiOrio, Esquire, and Kathleen E. Mahoney, Esquire hereby certify that a true and correct copy of the foregoing Defendants Charles P. Sexton, Jr., George W. Hill, Delaware County and Delaware County Board of Prison Inspectors' Pre-Trial Memorandum was served on the date below by United States First Class Mail, postage prepaid:

Derrick Howard, Esquire
John Rollins, Esquire
HOWARD ROLLINS, LLC
262 South 12th Street
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William C. Reil, Esquire
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Philadelphia, PA 19102

DIORIO AND SERENI, LLP

Date: March 29, 2004

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